IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.518 OF 2006

M/s.Murphy Electronics (P) Ltd. & Anr. ...Petitioners

vs.

The State of Maharashtra & others ...Respondents

Mr.Kaushik Jadhav with Mr.Parvez I.Ubharay for the Petitioners
Mr.Naji H.H. for Respondent No.2
Mr.Rajesh More,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 18,2006.

P.C.:

1. Heard Advocates appearing for the parties. The Petitioners are arraigned as accused in a complaint under section 138 of the Negotiable Instruments Act, 1881. The learned Magistrate issued process on the said private complaint filed by the second Respondent. An application was filed by the Petitioners praying for recall of order issuing process. By order dated 4th July 2003 the said application was rejected by the learned Magistrate. Being aggrieved by the said order, a Revision Application was preferred by the Petitioners before the Sessions Court which has been rejected. The prayer in this Petition is for setting aside the order passed in Revision Application as well as for quashing the complaint.

2. In view of the decision of the Apex Court in case of Adalat Prasad Vs. Rooplal Jindal and others reported in 2004 (4) Mh.L.J. page 274, Application made by the Petitioners for

recall of the order issuing process was itself not maintainable. In the circumstances, the learned Additional Sessions Judge was right in rejecting the Revision Application.

3. Therefore, there is no merit in the Writ Petition and the same is rejected.

4. Notwithstanding rejection of this Petition, it will be open for the Petitioners to file appropriate proceedings for challenging the order issuing process. It is made clear that all contentions of the parties on merits of the pending complaint are expressly kept open.

JUDGE